

ARTICLE 12.

ENVIRONMENTAL REGULATIONS

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PART I. FLOOD DAMAGE PREVENTION ORDINANCE (Coastal Regular Phase)

SECTION 12.01 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND OBJECTIVES

- (A) *Statutory Authorization.* The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Chapter 160D; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.
- (B) *Findings of Fact.*
- (1) The flood prone areas within the jurisdiction of the Town of Sunset Beach are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
 - (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.
- (C) *Statement of Purpose.* It is the purpose of this article is to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:
- (1) Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights, or velocities.
 - (2) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction.
 - (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters.
 - (4) Control filling, grading, dredging, and all other development that may increase erosion or flood damage.
 - (5) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

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(D) *Objectives.* The objectives of this article are to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business losses and interruptions;
- (5) Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;
- (6) Minimize damage to private and public property due to flooding;
- (7) Make flood insurance available to the community through the National Flood Insurance Program;
- (8) Maintain the natural and beneficial functions of floodplains;
- (9) Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
- (10) Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

SECTION 12.02 GENERAL PROVISIONS

- (A) *Lands to Which This Article Applies.* This article shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extraterritorial Jurisdictions (ETJs) if applicable, of the Town of Sunset Beach.
- (B) *Basis for Establishing the Special Flood Hazard Areas.* The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM) dated August 28, 2018 for Brunswick County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by

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reference and declared a part of this ordinance. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of the Town of Sunset Beach are also adopted by reference and declared a part of this ordinance. Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within 3 months.

- (C) *Establishment of Floodplain Development Permit.* A Floodplain Development Permit shall be required in conformance with the provisions of this article prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with Section 12.02(B).
- (D) *Compliance.* No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this article and other applicable regulations.
- (E) *Abrogation and Greater Restrictions.* This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- (F) *Interpretation.* In the interpretation and application of this article, all provisions shall be:
 - (1) Considered as minimum requirements;
 - (2) Liberally construed in favor of the governing body; and
 - (3) Deemed neither to limit nor repeal any other powers granted under State statutes.
- (G) *Warning and Disclaimer of Liability.* The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This article does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the Town of Sunset Beach or by any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.
- (H) *Penalties for Violation.* Violation of the provisions of this article or failure to comply with any of its requirements, including *violation* of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58. Any person who violates this article or fails

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to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Sunset Beach from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION 12.03 ADMINISTRATION

- (A) *Designation of Floodplain Administrator.* The Town Administrator or his/her designee, hereinafter referred to as the "Floodplain Administrator," is hereby appointed to administer and implement the provisions of this part. In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this ordinance, the Floodplain Administrator shall be responsible for the coordination and community's overall compliance with the National Flood Insurance Program and the provisions of this ordinance.
- (B) *Floodplain Development Application, Permit and Certification Requirements.*
- (1) *Application Requirements.* Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a Floodplain Development Permit:
- (a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
- (i) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
- (ii) The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Section 12.02(B), or a statement that the entire lot is within the Special Flood Hazard Area;
- (iii) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section 12.02(B);

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- (iv) The Base Flood Elevation (BFE) where provided as set forth in Section 12.02(B); Section 12.03(C)(11) and (12);
 - (v) The old and new location of any watercourse that will be altered or relocated as a result of proposed development;
 - (vi) The boundary and designation date of the Coastal Barrier Resource System (CBRS) area or Otherwise Protected Areas (OPA), if applicable; and
 - (vii) The certification of the plot plan by a registered land surveyor or professional engineer.
 - (viii) The boundary of the floodway(s) or non-encroachment area(s) as determined in Section 12.02(B).
- (b) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
- (i) Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;
 - (ii) Elevation in relation to NAVD 1988 to which any non-residential structure in Zone AE will be flood-proofed; and
 - (iii) Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or flood-proofed;
- (c) If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan that include, but is not limited to, installation, exercise, and maintenance of floodproofing measures.
- (d) A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this article are met. These details include but are not limited to:
- (i) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and

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- (ii) Openings to facilitate equalization of hydrostatic flood forces on walls in accordance with Section 12.04(B)(4)(d) , when solid foundation perimeter walls are used in Zone AE.
- (iii) The following, in Coastal High Hazard Areas, in accordance with Section 12.04(B)(4)(e):
 - (1) V-Zone Certification with accompanying plans and specifications verifying the engineered structure and any breakaway wall designs. In addition, prior to the Certificate of Compliance/Occupancy issuance, a registered professional engineer or architect shall certify the finished construction is compliant with the design, specifications and plans for VE Zone construction;
 - (2) Plans for open wood latticework or insect screening, if applicable; and
 - (3) Plans for non-structural fill, if applicable. If non-structural fill is proposed, it must be demonstrated through coastal engineering analysis that the proposed fill would not result in any increase in the Base Flood Elevation or otherwise cause adverse impacts by wave ramping and deflection on to the subject structure or adjacent properties.
- (e) Usage details of any enclosed areas below the lowest floor.
- (f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
- (g) Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received (Wetlands, Endangered Species, Erosion and Sedimentation Control, CAMA, Riparian Buffers, Mining, etc.).
- (h) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to

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properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation. The engineering report must show that the flood-carrying capacity within the altered or relocated channel will be maintained.

- (2) *Permit Requirements.* The Floodplain Development Permit shall include, but not be limited to:
- (a) A description of the development to be permitted under the Floodplain Development Permit (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).
 - (b) The Special Flood Hazard Area determination for the proposed development per available data specified in Section 12.02(B).
 - (c) The regulatory flood protection elevation required for the reference level and all attendant utilities.
 - (d) The regulatory flood protection elevation required for the protection of all public utilities.
 - (e) All certification submittal requirements with timelines.
 - (f) The flood openings requirements, if in Zone AE.
 - (g) Limitations of below BFE enclosure uses, if applicable (i.e., parking, building access and limited storage only).
 - (h) A statement, if in Zone VE, that there shall be no alteration of sand dunes which would increase potential flood damage.
 - (i) A statement, if in Zone VE, that there shall be no fill used for structural support.
 - (j) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of Section 12.04(D) have been met.

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- (k) A statement, that all materials below BFE/RFE must be flood resistant materials.
- (3) *Certification Requirements.*
 - (a) Elevation Certificates.
 - (i) An Elevation Certificate (FEMA Form 086-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit.
 - (ii) An Elevation Certificate (FEMA Form 086-0-33) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.
 - (iii) A final Finished Construction Elevation Certificate (FEMA Form 086-0-33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another

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certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy. The Finished Construction Elevation Certificate certifier shall provide at least 2 photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in Section A. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least 2 additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3" × 3". Digital photographs are acceptable.

(b) *Floodproofing Certificate.*

- (i) If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- (ii) A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of

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a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.

- (c) If a manufactured home is placed within Zone AE and the elevation of the chassis is more than thirty-six (36) inches in height above grade, an engineered foundation certification is required per Section 12.04(B)(3).
- (d) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation, a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream, and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a Floodplain Development Permit. The engineering report must show that the flood-carrying capacity within the altered or relocated channel will be maintained.
- (e) Certification exemptions. The following structures, if located within Zone AE, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:
 - (i) Temporary structures meeting requirements of Section 12.04(B)(7); and
 - (ii) Accessory structures less than one hundred forty-four (144) square feet meeting requirements of Section 12.04(B)(6).
- (f) A V-Zone Certification with accompanying design plans and specifications is required prior to issuance of a Floodplain Development Permit within coastal

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high hazard areas. It shall be the duty of the permit applicant to submit to the Floodplain Administrator said certification to ensure the design standards of this article are met. A registered professional engineer or architect shall develop or review the structural design, plans, and specifications for construction and certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this article. This certification is not a substitute for an Elevation Certificate and an Elevation Certificate is not a substitute for the V-Zone Certification. In addition, prior to the Certificate of Compliance/Occupancy issuance, a registered professional engineer or architect shall certify the finished construction is compliant with the design, specifications and plans for VE Zone construction.

- (4) *Determinations for Existing Buildings and Structures.* For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:
- (a) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
 - (b) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
 - (c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
 - (d) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required.
- (C) *Duties and Responsibilities of the Floodplain Administrator.* The Floodplain Administrator shall perform, but not be limited to, the following duties:

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- (1) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to ensure that the requirements of this article have been satisfied.
- (2) Review all proposed development within Special Flood Hazard Areas to assure that all necessary local, state and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334, and require that copies of such permits be provided and maintained on file with the Floodplain Development Permit.
- (3) Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
- (5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Section 12.04(D) are met.
- (6) Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) and all attendant utilities of all new or substantially improved structures, in accordance with Section 12.03(B)(3).
- (7) Obtain actual elevation (in relation to NAVD 1988) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with Section 12.03(B)(3).
- (8) Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with Section 12.03(B)(3).
- (9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with Section 12.03(B)(3) and Section 12.04(B)(2).
- (10) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation.

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The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

- (11) When Base Flood Elevation (BFE) data has not been provided in accordance with Section 12.02(B), obtain, review, and reasonably utilize any Base Flood Elevation (BFE) data, along with floodway data or non-encroachment area data available from a Federal, State, or other source, in order to administer the provisions of this article.
- (12) When Base Flood Elevation (BFE) data is provided but no floodway nor non-encroachment area data has been provided in accordance with Section 12.02(B), obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this article.
- (13) When the lowest ground elevation of a parcel or structure in a Special Flood Hazard Area is above the Base Flood Elevation, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the Letter of Map Amendment (LOMA) issued by FEMA in the Floodplain Development Permit file.
- (14) Permanently maintain all records that pertain to the administration of this article and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
- (15) Make on-site inspections of work in progress. As the work pursuant to a Floodplain Development Permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
- (16) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this article, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

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- (17) Revoke Floodplain Development Permits as required. The Floodplain Administrator may revoke and require the return of the Floodplain Development Permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any Floodplain Development Permit mistakenly issued in violation of an applicable State or local law may also be revoked.
 - (18) Make periodic inspections throughout all Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
 - (19) Follow through with corrective procedures of Section 12.03(D).
 - (20) Review, provide input, and make recommendations for variance requests.
 - (21) Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with Section 12.02(B), including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
 - (22) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).
- (D) *Corrective Procedures.*
- (1) *Violations to be Corrected.* When the Floodplain Administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
 - (2) *Actions in Event of Failure to Take Corrective Action.* If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

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- (a) That the building or property is in violation of the floodplain management regulations;
 - (b) That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and,
 - (c) That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.
 - (3) *Order to Take Corrective Action.* If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he/she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than one hundred eighty (180) calendar days or less. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he/she may order that corrective action be taken in such lesser period as may be feasible.
 - (4) *Appeal.* Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the Town Clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
 - (5) *Failure to Comply with Order.* If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58 and shall be punished at the discretion of the Court.
- (E) *Variance Procedures.*
- (1) The Sunset Beach Board of Adjustment as established by the Town of Sunset Beach, hereinafter referred to as the "Appeal Board," shall hear and decide requests for variances from the requirements of this article.

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- (2) Any person aggrieved by the decision of the Appeal Board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.
- (3) Variances may be issued for:
 - (a) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.
 - (b) Functionally dependant facilities if determined to meet the definition as stated in Appendix A of this Ordinance, provided provisions of Section 12.03(E)(9)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
 - (c) Any other type of development, provided it meets the requirements stated in this section.
- (4) In passing upon variances, the Appeal Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this article, and:
 - (a) The danger that materials may be swept onto other lands to the injury of others;
 - (b) The danger to life and property due to flooding or erosion damage;
 - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) The importance of the services provided by the proposed facility to the community;
 - (e) The necessity to the facility of a waterfront location as defined in Appendix A of this Ordinance as a functionally dependant facility, where applicable;
 - (f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

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- (g) The compatibility of the proposed use with existing and anticipated development;
 - (h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (5) A written report addressing each of the above factors shall be submitted with the application for a variance.
- (6) Upon consideration of the factors listed above and the purposes of this article, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.
- (7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the Base Flood Elevation increases risks to life and property, and that the issuance of a variance to construct a structure below the Base Flood Elevation may result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
- (8) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.
- (9) Conditions for Variances:

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- (a) Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
 - (b) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
 - (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (d) Variances shall only be issued prior to development permit approval.
 - (e) Variances shall only be issued upon:
 - (i) A showing of good and sufficient cause;
 - (ii) A determination that failure to grant the variance would result in exceptional hardship; and
 - (iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (10) A variance will not be issued for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the conditions of Section 12.04 are met.

SECTION 12.04 PROVISION FOR FLOOD HAZARD REDUCTION

- (A) *General Standards.* In all Special Flood Hazard Areas the following provisions are required:
- (1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
 - (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

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- (3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- (4) All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, water heaters, and electric outlets/switches.
 - (a) Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provision.
 - (b) Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (8) Nothing in this article shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this Ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this article.
- (9) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted. A structure or

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tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified in accordance with the provisions of Section 12.03(B)(3).

- (10) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
 - (11) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
 - (12) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
 - (13) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
 - (14) When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.
 - (15) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest BFE shall apply.
- (B) *Specific Standards.* In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section 12.02(B), or Section 12.03(C)(11) and (12), the following provisions, in addition to Section 12.04(A), are required:
- (1) *Residential Construction.* New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Appendix A of this Ordinance.
 - (2) *Non-Residential Construction.* New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference

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level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Appendix A of this Ordinance. Structures located in the AE Zone may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Section 12.03(B)(3), along with the operational plan and the inspection and maintenance plan.

(3) *Manufactured Homes.*

- (a) New or replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in Appendix A of this Ordinance.
- (b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by engineer certification, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes, adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15 or a certified engineered foundation. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
- (c) All enclosures or skirting below the lowest floor shall meet the requirements of Section 12.04(B)(4)(a), (b), (c) and (d).
- (d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.

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- (4) *Elevated Buildings.* Fully enclosed areas, of new construction and substantially improved structures, which are below the lowest floor or the lowest horizontal structural member in VE zones:
- (a) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
 - (b) Shall not be temperature-controlled or conditioned.
 - (c) Shall be constructed entirely of flood resistant materials; and
 - (d) Shall include, in Zone AE, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of flood waters. To meet this requirement, the openings must either be certified by a professional engineer or architect, or meet or exceed the following minimum design criteria;
 - (i) A minimum of two (2) flood openings on different sides of each enclosed area subject to flooding;
 - (ii) The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
 - (iii) If a building has more than one (1) enclosed area, each enclosed area must have flood openings to allow flood waters to automatically enter and exit;
 - (iv) The bottom of all required flood openings shall be no higher than one (1) foot above the higher of the interior or exterior adjacent grade;
 - (v) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of flood waters in both directions; and

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- (vi) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.
- (de) Shall, in Coastal High Hazard Areas (Zones VE), either be free of obstruction or constructed with breakaway walls, open wood latticework or insect screening, provided they are not part of the structural support of the building and are designed so as to breakaway, under abnormally high tides or wave action, without causing damage to the elevated portion of the building, or supporting foundation system or otherwise jeopardizing the structural integrity of the building. The following design specifications shall be met:
 - (i) Material shall consist of open wood or plastic lattice having an opening ratio of at least 40 percent, or insect screening; or
 - (ii) Breakaway walls shall meet the following design specifications:
 - (1) Breakaway walls shall have flood openings that allow for the automatic entry and exit of floodwaters to minimize damage caused by hydrostatic loads, per 12.04(B)(4)(d);
 - (2) Design safe loading resistance of each wall shall be not less than ten (10) nor more than twenty (20) pounds per square foot; or
 - (3) Breakaway walls that exceed a design safe loading resistance of twenty (20) pounds per square foot (either by design or when so required by State or local codes) shall be certified by a registered professional engineer or architect that the breakaway wall will collapse from a water load less than that which would occur during the base flood event, and the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). The water loading values used shall be those associated with the base flood. The wind

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loading values used shall be those required by the North Carolina State Building Code.

(iii) Concrete pads, including patios, decks, parking pads, walkways, driveways, pool decks, etc. the following is required:

(1) Shall be structurally independent of the primary structural foundation system of the structure and shall not adversely affect structures through redirection of floodwaters or debris; and

(f) Fill/Grading

(i) Minor grading and the placement of minor quantities of nonstructural fill may be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios and walkways.

(ii) The fill material must be similar and consistent with the natural soils in the area.

(iii) The placement of site-compatible, non-structural fill under or around an elevated building is limited to two (2) feet. Fill greater than two (2) feet must include an analysis prepared by a qualified registered design professional demonstrating no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated buildings and structures.

(5) *Additions/Improvements.*

(a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

(i) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.

(ii) A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is

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structurally modified more than installing a doorway, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

- (b) Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.
- (c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - (i) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure.
 - (ii) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- (d) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one (1) year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the one (1) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:
 - (i) Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building

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official and that are the minimum necessary to assume safe living conditions.

- (ii) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure

(6) *Accessory Structures.* When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

- (a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking, or restroom areas).
- (b) Accessory structures shall not be temperature-controlled.
- (c) Accessory structures shall be designed to have low flood damage potential.
- (d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters.
- (e) Accessory structures shall be firmly anchored in accordance with the provisions of Section 12.04(A)(1).
- (f) All service facilities such as electrical shall be installed in accordance with the provisions of Section 12.04(A)(4).
- (g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with the provisions of Section 12.04(B)(4)(c).

An accessory structure with a footprint less than one hundred forty-four (144) square feet that satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of Section 12.04(B)(2). Elevation or floodproofing certifications are required for all other accessory structures in accordance with Section 12.03(B)(3).

(7) *Temporary Non-Residential Structures.* Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a

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hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

- (a) A specified time period for which the temporary use will be permitted. Time specified should not exceed three (3) months, renewable up to one (1) year;
 - (b) The name, address, and phone number of the individual responsible for the removal of the temporary structure;
 - (c) The time frame prior to the event at which a structure will be removed (i.e., minimum of seventy-two (72) hours before landfall of a hurricane or immediately upon flood warning notification);
 - (d) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
 - (e) Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.
- (8) *Tanks.* When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
- (a) Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;
 - (b) Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
 - (c) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Section 12.04(B)(2) of this ordinance shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed,

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and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.

- (d) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:
 - (i) At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
 - (ii) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(9) *Other Development.*

- (a) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 12.04(D) of this ordinance.
- (b) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 12.04(D) of this ordinance.
- (c) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Section 12.04(D) of this ordinance.

(C) *Coastal High Hazard Areas (Zones VE).* Coastal High Hazard Areas are Special Flood Hazard Areas established in Section 12.02(B), and designated as Zones VE. These areas have special flood hazards associated with high velocity waters from storm surges or seismic activity and, therefore, all new construction and substantial improvements shall meet the following provisions, in addition to the provisions of Section 12.04(A) and Section 12.04(B):

- (1) All new construction and substantial improvements shall:
 - (a) Be located landward of the reach of mean high tide;
 - (b) Be located landward of the first line of stable natural vegetation; and

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- (c) Comply with all applicable CAMA setback requirements.
- (2) All new construction and substantial improvements shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is no lower than the regulatory flood protection elevation. Floodproofing shall not be utilized on any structures in Coastal High Hazard Areas to satisfy the regulatory flood protection elevation requirements.
- (3) All new construction and substantial improvements shall have the space below the lowest horizontal structural member of the lowest floor free of obstruction so as not to impede the flow of flood waters, with the following exceptions:
 - (a) Open wood or plastic latticework or insect screening may be permitted below the lowest floor for aesthetic purposes only and must be designed to wash away in the event of wave impact and in accordance with the provisions of Section 12.04(B)(4)(e)(i). Design plans shall be submitted in accordance with Section 12.03(B)(1)(d)(iii)(2) and 12.03(B)(1)(d)(iii)(3); or
 - (b) Breakaway walls may be permitted provided they meet the criteria set forth in Section 12.04(B)(4)(e). Design plans shall be submitted in accordance with the provisions of Section 12.03(B)(1)(d)(iii)(1).
- (4) All new construction and substantial improvements shall be securely anchored to pile or column foundations. All pilings and columns and the structure attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.
 - (a) Water loading values used shall be those associated with the base flood.
 - (b) Wind loading values used shall be those required by the current edition of the North Carolina State Building Code.
- (5) For concrete pads, including patios, decks, parking pads, walkways, driveways, pool decks, etc. the following is required:
 - (a) Shall be structurally independent of the primary structural foundation system of the structure and shall not adversely affect structures through redirection of floodwaters or debris; and
 - (b) Shall be constructed to breakaway cleanly during design flood conditions,

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shall be frangible, and shall not produce debris capable of causing damage to any structure. (The installation of concrete in small segments (approximately 4 feet x 4 feet) that will easily break up during the base flood event, or score concrete in 4 feet x 4 feet maximum segments is acceptable to meet this standard); and

- (c) Reinforcing, including welded wire fabric, shall not be used in order to minimize the potential for concreted pads being a source of debris; and
 - (d) Pad thickness shall not exceed 4 inches; or
 - (e) Provide a Design Professional's certification stating the design and method of construction to be used meet the applicable criteria of this section.
- (6) For swimming pools and spas, the following is required:
- (a) Be designed to withstand all flood-related loads and load combinations.
 - (b) Be elevated so that the lowest horizontal structural member is elevated above the RFPE; or
 - (c) Be designed and constructed to break away during design flood conditions without producing debris capable of causing damage to any structure; or
 - (d) Be sited to remain in the ground during design flood conditions without obstructing flow that results in damage to any structure.
 - (e) Registered design professionals must certify to local officials that a pool or spa beneath or near a VE Zone building will not be subject to flotation or displacement that will damage building foundations or elevated portions of the building or any nearby buildings during a coastal flood.
 - (f) Pool equipment shall be located above the RFPE whenever practicable. Pool equipment shall not be located beneath an elevated structure.
- (7) All elevators, vertical platform lifts, chair lifts, etc., the following is required:
- (a) Elevator enclosures must be designed to resist hydrodynamic and hydrostatic forces as well as erosion, scour, and waves.
 - (b) Utility equipment in Coastal High Hazard Areas (VE Zones) must not be mounted on, pass through, or be located along breakaway walls.
 - (c) The cab, machine/equipment room, hydraulic pump, hydraulic reservoir, counter weight and roller guides, hoist cable, limit switches, electric hoist

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motor, electrical junction box, circuit panel, and electrical control panel are all required to be above RFPE. When this equipment cannot be located above the RFPE, it must be constructed using flood damage-resistant components.

- (d) Elevator shafts/enclosures that extend below the RFPE shall be constructed of reinforced masonry block or reinforced concrete walls and located on the landward side of the building to provide increased protection from flood damage. Drainage must be provided for the elevator pit.
 - (e) Flood damage-resistant materials can also be used inside and outside the elevator cab to reduce flood damage. Use only stainless steel doors and door frames below the BFE. Grouting in of door frames and sills is recommended.
 - (f) If an elevator is designed to provide access to areas below the BFE, it shall be equipped with a float switch system that will activate during a flood and send the elevator cab to a floor above the RFPE.
- (10) A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions of Section 12.03(B) and Section 12.04(C)(3) and (C)(4), on the current version of the North Carolina V-Zone Certification form or equivalent local version. In addition, prior to the Certificate of Compliance/Occupancy issuance, a registered professional engineer or architect shall certify the finished construction is compliant with the design, specifications and plans for VE Zone construction.
- (11) Fill/Grading
- (a) Minor grading and the placement of minor quantities of nonstructural fill may be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios and walkways.
 - (b) The fill material must be similar and consistent with the natural soils in the area.
 - (c) The placement of site-compatible, non-structural fill under or around an elevated building is limited to two (2) feet. Fill greater than two (2) feet must include an analysis prepared by a qualified registered design professional demonstrating no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated buildings and structures.

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- (d) Nonstructural fill with finished slopes that are steeper than five (5) units horizontal to one (1) unit vertical shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated buildings and structures.
- (12) There shall be no alteration of sand dunes or mangrove stands which would increase potential flood damage.
- (13) No manufactured homes shall be permitted except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and elevation standards of this Section have been satisfied.
- (14) A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the Regulatory Flood Protection Elevation and any supporting members that extend below the Regulatory Flood Protection Elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck. The increased loads must be considered in the design of the primary structure and included in the V-Zone Certification required under Section 12.03(B)(3).
- (15) A deck or patio that is located below the Regulatory Flood Protection Elevation shall be structurally independent from buildings or structures and their foundation systems, and shall be designed and constructed either to remain intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures.
- (16) In coastal high hazard areas, development activities other than buildings and structures shall be permitted only if also authorized by the appropriate state or local authority; if located outside the footprint of, and not structurally attached to, buildings and structures; and if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to:
 - (a) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
 - (b) Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the design flood or otherwise function to avoid obstruction of floodwaters.

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- (D) *Floodways and Non-Encroachment Areas.* Areas designated as floodway or non-encroachment areas are located within the Special Flood Hazard Areas established in Section 12.02(B). The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of flood waters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Section 12.04(A) and (B), shall apply to all development within such areas:
- (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
 - (a) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit, or
 - (b) A Conditional Letter of Map revision (CLOMR) has been approved by FEMA. A Letter of Map revision (LOMR) must also be obtained within six (6) months of completion of the proposed encroachment.
 - (2) If Section 12.04(D)(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this article.
 - (3) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:
 - (a) The anchoring and the elevation standards of Section 12.04(B)(3); and
 - (b) The encroachment standards of Section 12.04(D)(1).
- (E) *Standards for Coastal A Zones (Zone CAZ) LiMWA.* All structures in CAZs shall be designed and constructed to meet V Zone requirements, including requirements for breakaway walls. However, the NFIP regulations also require flood openings in walls surrounding enclosures below elevated buildings in CAZs (see Technical Bulletin 1, Openings in Foundation Walls and Walls of Enclosures). Breakaway walls used in CAZs must have flood openings that allow for the automatic entry and exit of floodwaters to minimize damage caused by hydrostatic loads. Openings also function during smaller storms or if anticipated wave loading does not occur with the base flood.

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- (1) All new construction and substantial improvements shall meet the criteria and provisions of Section 12.04(C).

SECTION 12.05 LEGAL STATUS PROVISIONS

- (A) *Effect on Rights and Liabilities Under the Existing Flood Damage Prevention Ordinance.* This article in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted November 18, 1972 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued there under are reserved and may be enforced. The enactment of this article shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of the Town of Sunset Beach enacted on November 18, 1972, as amended, which are not reenacted herein are repealed.
- (B) *Effect Upon Outstanding Floodplain Development Permits.* Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this Ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this Ordinance.
- (C) *Severability.* If any section, clause, sentence, or phrase of the Article is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Article.
- (D) *Effective Date.* This ordinance shall become effective August 28, 2018.

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PART II. STORMWATER MANAGEMENT ORDINANCE

Development and redevelopment alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, soil erosion, stream channel erosion, nonpoint and point source pollution, and sediment transport and deposition, as well as reducing groundwater recharge;

These changes in stormwater runoff contribute to increased quantities of water-borne pollutants and alterations in hydrology that are harmful to public health and safety as well as to the natural environment; and

These effects can be managed and minimized by applying proper design and well-planned controls to manage stormwater runoff from development sites.

Therefore, the Town of Sunset Beach establishes this set of water quality and quantity regulations to manage stormwater runoff and discharge.

A. Development Subject to Stormwater Requirements.

1. Development activities including one (1) or more acres of land disturbance requiring an erosion and sediment control plan or CAMA Major Permit shall be governed by the NC State Stormwater Regulations and the Brunswick County Stormwater Quality Management and Discharge Control Ordinance and shall obtain a State and County stormwater permit.
2. Residential development may not exceed forty-five (45) percent impervious surface of total lot area and the total amount of impervious surface must remain below the maximum impervious surface coverage allowed by any other regulatory agency.
3. In addition to the requirements from subsection (1) above, all development and redevelopment of single-family or duplex residences greater than two hundred (200) square feet must provide appropriate control systems that are any combination of infiltration systems, bio-retention systems, constructed stormwater wetlands, sand filters, cisterns, rain gardens, or alternative low impact development stormwater management systems designed in accordance with the NC Department of Environmental Quality's Stormwater Design BMP Manual and any Town required design criteria to control and treat the runoff from all surfaces generated by one and one-half (1 ½) inches of rainfall or less from all impervious surfaces on site.
4. All development and redevelopment projects not exempt from the provisions of this article must consider low impact development (LID) practices to analyze the infiltration capacity and natural drainages of the site and develop a system of controls which mimic the existing natural hydrology. An LID guidance manual and evaluation tools are available from Brunswick County.

B. Stormwater Management Plan and Erosion Control Required.

ARTICLE 12. ENVIRONMENTAL REGULATIONS

1. A stormwater management plan shall be required prior to the issuance of any permits for new construction or renovation/expansion projects where the impervious surface coverage increases by greater than two hundred (200) square feet. For renovation/expansion of existing single-family or duplex residences all additional impervious surfaces must be controlled and treated in accordance with (3) above. If the renovation/expansion exceeds fifty percent (50%) of its reproducible value at the time of application the runoff generated from one and one-half (1 ½) inches of rainfall from all impervious surfaces, existing and new, must be controlled and treated in accordance with (3) above. All stormwater management plans must be designed according to the following:

- a) When the project adding impervious surfaces exceeds thirty thousand dollars (\$30,000.00) in value, the stormwater management plan shall be designed, inspected and approved after construction by a North Carolina professional engineer prior to issuance of a certificate of occupancy.
- b) When the project adding impervious surfaces is less than thirty thousand dollars (\$30,000.00) in value, the stormwater management plan shall be designed by a licensed professional engineer or surveyor and inspected and approved after construction by the UDO Administrator or designee prior to issuance of a certificate of occupancy.

2. For all development and redevelopment, no grading, cutting or filling shall be commenced until erosion and sedimentation control devices have been installed in order to retain sediment on the site. Erosion control devices must be maintained during all phases of construction and after development.